

ORIGINAL

Decision No. 51285

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 LOS ANGELES TRANSIT LINES, a corpo-)
 ration, for authority to make certain)
 changes in its system, including the)
 substitution of motor coach service)
 for certain rail service, modification)
 of routes, abandonment of certain lines)
 and facilities and other changes.)
 Application No. 35728

Application of METROPOLITAN COACH LINES,)
 a corporation, for authority to make)
 certain extensions and rerouting of)
 the following motor coach lines, all)
 located in the City of Los Angeles:)
 VAN NUYS-BIRMINGHAM HOSPITAL LINE,)
 ROUTE #85 VAN NUYS-CANOCA PARK LINE,)
 ROUTE #90 VAN NUYS-SAN FERNANDO LINE,)
 ROUTE #84 HOLLYWOOD-VENTURA BOULEVARD)
 LINE, ROUTE #81.)
 Application No. 35737

In the Matter of the Application of)
 METROPOLITAN COACH LINES, a corpora-)
 tion, for authority to replace rail)
 service on the Subway-Glendale-Burbank)
 rail line with motor coach service and)
 to combine said motor coach line with)
 existing Line 75, Los Angeles-Santa)
 Monica-Venice.)
 Application No. 34990

In the Matter of the Application of)
 LOS ANGELES TRANSIT LINES, a corpora-)
 tion, and METROPOLITAN COACH LINES, a)
 corporation, for authority to adjust)
 rates.)
 Application No. 35601

Gibson, Dunn & Crutcher, by Max Eddy Utt, for
 Los Angeles Transit Lines; Waldo K. Greiner, for
 Metropolitan Coach Lines, applicants.

Alan G. Campbell, Assistant City Attorney, for City
 of Los Angeles; Wilson E. Carter, for Inglewood
 Chamber of Commerce; Kenneth Johanson, for City of
 Inglewood; Theodore K. Resmey, in propria persona;
Carl F. Fennema, for Downtown Business Men's Associa-
 tion; Robert Reed, George Hadley, Reginald B. Pegram,
Ray M. Steel, for Department of Public Works, Division
 of Highways of State of California; Henry McClernan,
 City Attorney, and John H. Lauten, Assistant City
 Attorney, for City of Glendale, interested parties.

Harold J. McCarthy, Senior Counsel, for the staff of
 the Public Utilities Commission of the State of
 California.

O P I N I O N

By Decision No. 50734, dated November 3, 1954, in Applications Nos. 35601, 35653, 35728 and 35737, this Commission authorized the Los Angeles Transit Lines to substitute motor coach service for its existing rail passenger service on Lines "F", 5, 7, 8 and portions of "W" and 9. The Board of Public Utilities and Transportation of the City of Los Angeles,¹ by its tentative resolution, dated November 23, 1954, which was affirmed by its Order No. 151, dated February 8, 1955, denied the request of Los Angeles Transit Lines to make these substitutions.

By Decision No. 50873, dated December 14, 1954, in Applications Nos. 34830 and 34990, this Commission authorized Metropolitan Coach Lines to substitute motor coach service for passenger rail service on its Los Angeles-Glendale-Burbank rail line. The City Board denied this company the authority to make such a substitution by its order of May 25, 1954, and affirmed this action by its Order No. 143, dated July 6, 1954.

As a result of these conflicting decisions, this Commission, on February 7, 1955, issued an order to show cause directed to Los Angeles Transit Lines, Metropolitan Coach Lines and the aforesaid City Board ordering and directing said respondents to show cause, if any they had, why the orders in Decision No. 50734 and Decision No. 50873 should not be made mandatory. A public hearing was held on this order in Los Angeles on February 23, 1955, before Commissioner Ray E. Untereiner and Examiner Grant E. Syphers.

A motion to separate the consideration of Metropolitan Coach Lines from that of Los Angeles Transit Lines was made and

¹ Hereinafter referred to as the City Board.

granted on the grounds that the City Board presently is considering a reapplication of Metropolitan Coach Lines to effect the substitution herein concerned. Accordingly the matter as it relates to Metropolitan Coach Lines was continued to a date to be set. The matter as it concerns Los Angeles Transit Lines was submitted on February 23, 1955. The City Board, by letter and telegram, dated March 25, 1955, requested this Commission to set aside the submission and reopen the matter so that additional "pertinent information" resulting from "present situations which have developed" might be presented. A further hearing was held in Los Angeles on March 30, 1955, to permit the City Board to make a formal appearance, move to set aside the submission, and provide an explanation of the additional "pertinent information" and "present situations which have developed."

At the hearing on February 23, 1955, there was no appearance for the City Board, although a representative of the Los Angeles City Attorney appeared and stated the City Attorney's position to be that he represented the Los Angeles City Council rather than the City Board. Item No. 2² is an excerpt from the minutes of the Los Angeles City Council meeting of December 17, 1954, which reaffirmed a resolution of that council urging that both the City Board and the State Commission "take speedy and affirmative action" upon the petition for requested substitution by Los Angeles Transit Lines. Item No. 3 is a report of the City Attorney made to the City Council in connection with this matter and Item No. 4 is an opinion of the City Attorney made to the City Board.

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Copies of resolutions and other documents received in evidence were identified as "Items" rather than as "exhibits" by the presiding Commissioner.

At the hearing on March 30, 1955, the President of the City Board entered an appearance, presenting Item No. 12, a resolution of the City Board, dated March 29, 1955, authorizing him to so appear, and moved this Commission (1) to set aside the submission made on February 23, 1955, of the hearing on the Order To Show Cause, and (2) to reopen Decision No. 50734, supra. The principal grounds advanced for this motion were that this Commission has not had the benefit of evidence both documentary and oral that was presented to the City Board. Specifically it was urged that this Commission should have before it in a formal record (1) the decision of the City Board, dated June 2, 1953, wherein that Board granted the Los Angeles Transit Lines an alternate route for its tracks presently in Grand Avenue so as to make way for the construction of the Harbor Freeway; (2) Application No. 34186 which is an application filed by the Los Angeles Transit Lines with this Commission, requesting a determination by this Commission as to the relocation of the Los Angeles Transit Lines' tracks in Grand Avenue in the vicinity of the Harbor Freeway and the rerouting of service which such a relocation would cause, together with a request that the Los Angeles Transit Lines be allowed damages which allegedly would be caused by such relocation; (3) the proceedings before the Los Angeles Superior Court No. 607310 wherein the State Department of Public Works filed a suit amounting to an action in ejectment against the Los Angeles Transit Lines relative to its tracks on Grand Avenue in the vicinity of the Harbor Freeway and wherein the Los Angeles Superior Court awarded a judgment to the Los Angeles Transit Lines; (4) an agreement entered into on the 20th day of August, 1954, between the Department of Public Works and the Los Angeles Transit Lines, which agreement allegedly was entered into after the Superior Court judgment hereinabove mentioned and which relates to the

proposed abandonment of the tracks in Grand Avenue in the vicinity of the Harbor Freeway; and (5) a plan whereby the existing private rights of way may be utilized and not abandoned to public use. In support of these contentions the representative of the City Board pointed out the problem of congestion on the city streets of Los Angeles and contended that in addition to the abandonment of the tracks on public streets which is involved, the Los Angeles Transit Lines would also abandon to public use slightly more than 10 miles of unpaved right of way which is now being used by streetcars. The elimination of this right of way, it was stated, would place an additional burden on the city streets. It was also observed that buses will emit fumes and are in this respect more objectionable than rail streetcars.

At the hearing on February 23, 1955, the attorney for Los Angeles Transit Lines presented in evidence various documents. Item No. 5 is a copy of Franchise Ordinance No. 90343 passed by the City Council of Los Angeles on April 1, 1946, granting to Los Angeles Transit Lines a street railway, trolley coach and motor coach franchise on certain streets and in certain areas in the City of Los Angeles. Item No. 6 is a copy of that company's application before the City Board to make the substitution herein concerned. Item No. 7 is a copy of the tentative resolution of the City Board, dated November 23, 1954, previously referred to herein, and Items Nos. 8 and 9 are the objections of Los Angeles Transit Lines to this tentative resolution and the memorandum of points and authorities submitted by that company in connection with its objections.

It was pointed out that the Public Utilities Commission, by its Decision No. 50734, supra, found public convenience and necessity to require the proposed substitution, while the City Board,

by its orders relative to the Los Angeles Transit Lines, made a contrary finding. The company contended that in such a conflict the finding of this Commission is controlling.

On March 30, 1955, counsel for the Los Angeles Transit Lines, in reply to the motion made by the President of the City Board, pointed out that Application No. 35728 has been pending before this Commission since September of 1954. There were extensive hearings leading up to Decision No. 50734, supra, during which the matter was fully and completely explored. He stated that the City Board has had an ample opportunity to present its views in this matter. Relative to the private rights of way he pointed out that these have been dedicated to a public use only for a street railway. If the street railway is abandoned, then there are procedures under the law which a public board may take to acquire these rights of way. He also noted that in Decision No. 50734, supra, there is a provision prohibiting the Los Angeles Transit Lines against taking any action to alienate its interest in these private rights of way for a period of one hundred and eighty days.

Two technical changes in Decision No. 50734, supra, were requested by Los Angeles Transit Lines. In paragraph (4) of the order that company is authorized to "substitute trackless trolley service for its present Alvarado Motor Coach Line No. 41" It was requested that the word "substitute" be changed to "supplement", since the company may continue to use motor coaches, in addition to the trackless trolley, for service to special events in the Coliseum. In paragraph (5) the company was prohibited for a period of one hundred and eighty days from

alienating "any interest it may have in its existing rights of way and properties over which rail service presently is being conducted and which it is authorized to abandon" It was requested that this prohibition be limited to existing unpaved rights of way within the City of Los Angeles.

The Division of Highways of the Department of Public Works of the State of California appeared at both hearings, on February 23 and March 30, and emphasized that the Division now is proceeding with the construction of the Harbor Freeway. The contracts have been let for construction of a section of this freeway between 23rd Street and 42nd Street and the work now is in progress. This construction work is directly affected by Rail Lines 5, 9 and "F" of Los Angeles Transit Lines, inasmuch as, in the vicinity of Grand Avenue between Jefferson Boulevard and Santa Barbara Avenue, the freeway must cross an area now occupied by these tracks. In case the tracks are not removed it may mean that the plans of the Highway Department will have to be altered, either as to construction of the freeway, or as to procedures to be taken. Furthermore, any delay in a determination of whether or not the tracks are to be removed will hamper the plans of this department in its planning and construction work. This will result in greater cost to the taxpayers in the construction of the freeway. It will also seriously restrict the usefulness of the freeway. Items Nos. 10, 10a and 11 are maps showing the construction plans of the freeway in this area. Item No. 13 is a letter from the Assistant State Highway Engineer to the contractor in connection with the construction of the Harbor Freeway stating that the Division of Highways has decided not to erect temporary ramps and open that portion of the Harbor Freeway between 23rd Street and Grand Avenue.

At the hearing on March 30 the administrative officer of the City of Inglewood opposed the motion made by the President of the City Board and stated that it was the position of his City that it favored the substitution of buses and the abandonment of rail lines. Further, it expects to obtain the private rights of way in Inglewood, by negotiation, and to use them for the widening of streets.

The motions made on March 30 by the President of the City Board are hereby denied. No convincing reasons were advanced as to why the submission of the Order To Show Cause as made on February 23, 1955, or Decision No. 50734, should be set aside. No plan was advanced by the President of the City Board and this Commission is, and was on February 23, 1955, aware of the other points advanced as reasons for granting the motion. While we are in sympathy with the objectives of the City Board in seeking to preserve to the public the use of these private rights of way, yet the actions which we take must be in accordance with the law and with the best interests of all concerned. We are aware that the private rights of way may have some potential value for conversion into public rights of way, and it was for that reason that we placed the condition in Decision No. 50734, supra, that the Los Angeles Transit Lines should take no action to alienate these rights of way for a period of one hundred and eighty days. This condition will again be renewed in this order as a condition precedent.

The evidence above noted, together with all evidence adduced at the hearing, and the arguments presented in connection therewith, have been considered by this Commission. On the record before us, we can reach no conclusion other than that the public interest will best be served by the substitution of motor coach

service for rail passenger service as authorized in Decision No. 50734. Los Angeles Transit Lines and its customers will benefit from more economical and efficient service; taxpayers will benefit from the avoidance of further unnecessary expense in the construction of the Harbor Freeway; and freeway users will benefit from the elimination of a serious impediment to the free flow of traffic. In these circumstances, we find that public convenience and necessity require that the order in Decision No. 50734 be made mandatory.

We find that Los Angeles Transit Lines can effect the substitution of motor coaches for passenger rail service on the lines herein concerned without any further permission from this Commission as to the exercise of a franchise from the City of Los Angeles. By Decision No. 39163, dated June 25, 1946, in Application No. 27425 (46 C.R.C. 533), this Commission granted to Los Angeles Transit Lines a certificate "to exercise the rights and privileges granted by the City of Los Angeles by Ordinance No. 90343;" This franchise applies to a common carrier streetcar and bus system.

The technical changes requested will be authorized.

O R D E R

An order to show cause having been issued, due notice having been served upon Los Angeles Transit Lines, Metropolitan Coach Lines, and the Board of Public Utilities and Transportation of the City of Los Angeles, a public hearing having been held, and no substantial cause having been shown by any party, evidence having been adduced and the Commission being fully advised in the premises and good cause appearing,

IT IS HEREBY ORDERED that the following corrections and modifications be made to the interim order contained in Decision No. 50734, dated November 3, 1954:

1. Paragraph 4 of that order is hereby changed to read, "That Los Angeles Transit Lines be, and it hereby is, authorized to operate a trackless trolley service supplemented by motor coach service on its Alvarado Motor Coach Line No. 41 over and along the following described route:

"Alvarado Street Trolley Coach Line No. 1
Commencing at the intersection of Alvarado Street and Scott Street, thence via Alvarado Street, Hoover Street and Hoover Boulevard to Exposition Boulevard; returning via the reverse thereof."

2. Los Angeles Transit Lines, as a condition precedent to inaugurating any of the abandonments or changes authorized by Decision No. 50734 and herein made mandatory, shall submit to this Commission a written statement to the effect that for a period of one hundred eighty days from the effective date of this order it will take no action to alienate any interest it may have in its existing unpaved rights of way within the City of Los Angeles over which rail service presently is being conducted and which it is directed to abandon herein. The purpose of this provision is to preserve the existing rights of ownership or possession until the City of Los Angeles and Los Angeles Transit Lines have had an opportunity to explore future needs and to open negotiations through which desirable rights of way may be further utilized.

IT IS FURTHER ORDERED that the provisions of the interim order contained in Decision No. 50734, dated November 3, 1954, in so far as they relate to Los Angeles Transit Lines be, and they hereby are, made mandatory and Los Angeles Transit Lines is

hereby directed to comply with these provisions, as modified hereinabove, within ninety days after the effective date of this order.

IT IS FURTHER ORDERED that all other provisions of Decision No. 50734 not in conflict with this Decision shall remain in full force and effect.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5th day of April, 1955.

John E. DeWitt
President

Justin F. Cresser

Roy L. Lutzman

Markus H. Cook

Commissioners